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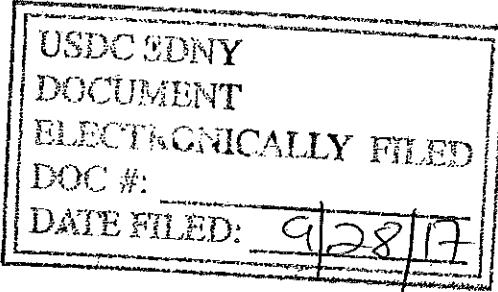
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September 28, 2017

BY ECF

Honorable Denise L. Cote
United States District Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007



United States v. David W. Kent
S1 16 Cr. 385 (DLC)

MEMO ENDORSED

Dear Judge Cote:

We represent Defendant David W. Kent in this matter. Mr. Kent is scheduled to be sentenced by the Court tomorrow, September 29, at 2:00 p.m. We are writing to request an adjournment of Mr. Kent's sentencing for a reasonable period, based on an unexpected development earlier today.

Mr. Kent entered a plea of guilty before this Court on December 19, 2016. A representative of the victim in this case, Brian Campbell, was present in the courtroom at the time of Mr. Kent's plea and sought to address the Court. At that time, the Court stated: "I urge the victim to cooperate with the government to make sure that any submissions the victim wishes to make in connection with this sentence are timely submitted to the Court."

The Probation Department's final Presentence Report was made available on September 15, 2017. On September 22, the government and Mr. Kent filed their respective submissions relating to Mr. Kent's upcoming sentencing. At no time was Mr. Kent's counsel made aware of any victim impact statement from the victim. However, at 11:23 a.m. this morning, counsel for the victim forwarded to the government a victim impact statement, with a copy to defense counsel and asked that it be forwarded to the Court. That victim impact statement contains egregious inaccuracies and mischaracterizations, and it is inflammatory and unfairly prejudicial to Mr. Kent.

We respectfully request an adjournment of Mr. Kent's sentencing so that we may respond to the misstatements made in the victim impact statement. It is patently unfair that Mr. Kent and his counsel should receive this statement the day before Mr. Kent is to be sentenced. Had defense counsel received the statement at an earlier time, counsel could have responded to it timely and would have had no need to request an adjournment.

Honorable Denise L. Cote

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We are aware that ¶ 6 of the Court's Individual Practices In Criminal Cases require that a motion to adjourn a sentencing to be made at least three days before the scheduled date, but circumstances made that impossible. We apologize for any inconvenience to the Court.

We have conferred with the U.S. Attorney's Office on this request. Assistant U.S. Attorney Chan had not yet had an opportunity to read the victim's submission when we spoke to him at 1:30 p.m. AUSA Chan advised us that the Office takes no position on our request for an adjournment.

Thank you for your consideration of our request.

Respectfully,


David Spears

The sentence is adjourned to

October 6 at noon.

Denise Cote
9/28/17